

AMENDED IN ASSEMBLY APRIL 24, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 538

Introduced by Assembly Member Cardoza

February 21, 2001

An act to amend Sections 7630, ~~7823, 7824~~, 8919, and 9001 of the Family Code, and to amend Section 16010 of the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Cardoza. Adoption.

Existing law provides that a child, the child's natural mother, or a man presumed to be the child's father, among other specified persons, may bring an action to determine the existence or nonexistence of the father and child relationship, as specified. Existing law requires that action to be consolidated with an action to terminate the parental rights of the father in adoption proceedings.

This bill would require a paternity action that is consolidated with an action to terminate the parental rights of the father in adoption proceedings to be heard in the county in which the action to terminate parental rights is filed, unless the party filing the action demonstrates that transferring the action to the other court poses a substantial hardship. If the court determines that there is a substantial hardship, the bill would require that the consolidated action be heard in the county in which the paternity action is filed.

~~Existing law permits the commencement of a proceeding in which a child under 18 years of age may be declared free from the custody and control of either or both parents where the child has been neglected or cruelly treated by either or both parents and has been a dependent child of the juvenile court, or when the child's parent or parents suffer from a disability, as defined, which renders the parent or parents unable to care for and control the child adequately, and the child has been a dependent child of the juvenile court, as specified.~~

~~This bill would revise the former provision to instead provide that the proceeding may be commenced if the child has been abused or endangered by either or both parents and the parent or parents have been convicted of child abuse or child endangerment, child molestation, or the child has been adjudged a dependent of the juvenile court.~~

Existing law requires each state resident who adopts a child through an intercountry adoption that is finalized in a foreign country to readopt the child in this state if it is required by the Immigration and Naturalization Service.

This bill would provide that each state resident who adopts a child through an intercountry adoption which is finalized in a foreign country may obtain a birth certificate in the State of California, as specified.

Existing law authorizes the probation officer, qualified court investigator, or, at the option of the board of supervisors, the county welfare department in a county in which an adoption proceeding is pending, to conduct an investigation of each case of stepparent adoption, and provides that the court may not make an order of adoption until after the probation officer, qualified court investigator, or county welfare department has filed its report and recommendation and they have been considered by the court.

This bill would additionally authorize a licensed adoption agency to engage in the above investigation, and to prepare and file a report and recommendation regarding the stepparent adoption to be considered by the court.

Existing law requires that, as soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency provide the caretaker with the child's current health and education summary, as specified, and for each subsequent placement, the child protective agency shall provide the caretaker with a current summary, as specified, within 48 hours of the placement.

The bill would provide that the child protective agency may disclose information, as specified, to prospective caretakers prior to placement

of a child if the child protective agency intends to place the child with prospective caretakers who are also a family that is willing to become the adoptive family of the child. The bill would also provide that the child protective agency may disclose to the prospective caretaker the child's placement history or underlying source documents, as specified.

Because this bill would increase certain duties of a child protective agency, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7630 of the Family Code is amended to
2 read:

3 7630. (a) A child, the child's natural mother, or a man
4 presumed to be the child's father under subdivision (a), (b), or (c)
5 of Section 7611, may bring an action as follows:

6 (1) At any time for the purpose of declaring the existence of the
7 father and child relationship presumed under subdivision (a), (b),
8 or (c) of Section 7611.

9 (2) For the purpose of declaring the nonexistence of the father
10 and child relationship presumed under subdivision (a), (b), or (c)
11 of Section 7611 only if the action is brought within a reasonable
12 time after obtaining knowledge of relevant facts. After the
13 presumption has been rebutted, paternity of the child by another
14 man may be determined in the same action, if he has been made
15 a party.

16 (b) Any interested party may bring an action at any time for the
17 purpose of determining the existence or nonexistence of the father



1 and child relationship presumed under subdivision (d) of Section
2 7611.

3 (c) An action to determine the existence of the father and child
4 relationship with respect to a child who has no presumed father
5 under Section 7611 or whose presumed father is deceased may be
6 brought by the child or personal representative of the child, the
7 Department of Child Support Services, the mother or the personal
8 representative or a parent of the mother if the mother has died or
9 is a minor, a man alleged or alleging himself to be the father, or the
10 personal representative or a parent of the alleged father if the
11 alleged father has died or is a minor.

12 (d) An action under subdivision (c) shall be consolidated with
13 a proceeding pursuant to Section 7662 if a proceeding has been
14 filed under Chapter 5 (commencing with Section 7660). The
15 parental rights of the alleged natural father shall be determined as
16 set forth in Section 7664. The consolidated action shall be heard
17 in the county in which the Section 7662 proceeding is filed, unless
18 the party filing the action under this section demonstrates ~~the~~ *that*
19 transferring the action to the other county poses a substantial
20 hardship. If the court determines there is a substantial hardship, the
21 consolidated action shall be heard in the county in which the
22 paternity action is filed.

23 ~~SEC. 2. Section 7823 of the Family Code is amended to read:~~
24 ~~7823. (a) A proceeding under this part may be brought if all~~
25 ~~of the following requirements are satisfied:~~

26 ~~(1) The child has been abused or endangered by either or both~~
27 ~~parents, and the parent or parents have been convicted of a felony~~
28 ~~pursuant to Section 273a, 273d, or 647.6 of the Penal Code.~~

29 ~~(2) The parent or parents have been deprived of the child's~~
30 ~~eustody for one year prior to the filing of a petition pursuant to this~~
31 ~~part.~~

32 ~~(b) Physical custody by the parent or parents for insubstantial~~
33 ~~periods of time does not interrupt the running of the one-year~~
34 ~~period.~~

35 ~~SEC. 3. Section 7824 of the Family Code is amended to read:~~

36 ~~7824. (a) "Disability" as used in this section means any~~
37 ~~physical or mental incapacity which renders the parent or parents~~
38 ~~unable to care for and control the child adequately.~~

39 ~~(b) A proceeding under this part may be brought if all of the~~
40 ~~following requirements are satisfied:~~

1 ~~(1) The child is one whose parent or parents (A) suffer a~~
2 ~~disability because of the habitual use of alcohol, or any of the~~
3 ~~controlled substances specified in Schedules I to V, inclusive, of~~
4 ~~Division 10 (commencing with Section 11000) of the Health and~~
5 ~~Safety Code, except when these controlled substances are used as~~
6 ~~part of a medically prescribed plan, or (B) are morally depraved.~~

7 ~~(2) The parent or parents have been deprived of the child's~~
8 ~~custody continuously for one year prior to the filing of a petition~~
9 ~~pursuant to this part.~~

10 ~~(c) Physical custody by the parent or parents for insubstantial~~
11 ~~periods of time does not interrupt the running of the one-year~~
12 ~~period.~~

13 ~~SEC. 4.~~

14 *SEC. 2.* Section 8919 of the Family Code is amended to read:

15 8919. (a) Each state resident who adopts a child through an
16 intercountry adoption that is finalized in a foreign country shall
17 readopt the child in this state if it is required by the Immigration
18 and Naturalization Service. The readoption shall include, but is not
19 limited to, at least one postplacement in-home visit, the filing of
20 the adoption petition pursuant to Section 8912, the intercountry
21 adoption court report, accounting reports, and the final adoption
22 order. No readoption order shall be granted unless the court
23 receives a report from an adoption agency authorized to provide
24 intercountry adoption services pursuant to Section 8900.

25 (b) Each state resident who adopts a child through an
26 intercountry adoption that is finalized in a foreign country may
27 readopt the child in this state. The readoption shall meet the
28 standards described in subdivision (a).

29 (c) In addition to the requirement or option of the readoption
30 process set forth in this section, each state resident who adopts a
31 child through an intercountry adoption which is finalized in a
32 foreign country may obtain a birth certificate in the State of
33 California in accordance with the provisions of Section 103450 of
34 the Health and Safety Code.

35 ~~SEC. 5.~~

36 *SEC. 3.* Section 9001 of the Family Code is amended to read:

37 9001. (a) The probation officer, qualified court investigator,
38 licensed adoption agency, or, at the option of the board of
39 supervisors, the county welfare department in the county in which
40 the adoption proceeding is pending shall make an investigation of

1 each case of stepparent adoption. The court may not make an order
2 of adoption until after the probation officer, qualified court
3 investigator, licensed adoption agency, or county welfare
4 department has filed its report and recommendation and they have
5 been considered by the court.

6 (b) Unless ordered by the court, no home study may be required
7 of the petitioner's home in a stepparent adoption. The agency
8 conducting the investigation or any interested person may request
9 the court to order a home study or the court may order a home study
10 on its own motion.

11 (c) "Home study" as used in this section means a physical
12 investigation of the premises where the child is residing.

13 ~~SEC. 6.~~

14 *SEC. 4.* Section 16010 of the Welfare and Institutions Code is
15 amended to read:

16 16010. (a) When a child is placed in foster care, the case plan
17 for each child recommended pursuant to Section 358.1 shall
18 include a summary of the health and education information or
19 records, including mental health information or records, of the
20 child. The summary may be maintained in the form of a health and
21 education passport, or a comparable format designed by the child
22 protective agency. The health and education summary shall
23 include, but not be limited to, the names and addresses of the
24 child's health, dental, and education providers, the child's grade
25 level performance, the child's school record, assurances that the
26 child's placement in foster care takes into account proximity to the
27 school in which the child is enrolled at the time of placement, a
28 record of the child's immunizations and allergies, the child's
29 known medical problems, the child's current medications, past
30 health problems and hospitalizations, a record of the child's
31 relevant mental health history, the child's known mental health
32 condition and medications, and any other relevant mental health,
33 dental, health, and education information concerning the child
34 determined to be appropriate by the Director of Social Services.
35 If any other provision of law imposes more stringent information
36 requirements, then that section shall prevail.

37 (b) Additionally, any court report or assessment required
38 pursuant to subdivision (g) of Section 361.5, Section 366.1,
39 subdivision (d) of Section 366.21, or subdivision (b) of Section



1 366.22 shall include a copy of the current health and education
2 summary described in subdivision (a).

3 (c) As soon as possible, but not later than 30 days after initial
4 placement of a child into foster care, the child protective agency
5 shall provide the caretaker with the child's current health and
6 education summary as described in subdivision (a). For each
7 subsequent placement, the child protective agency shall provide
8 the caretaker with a current summary as described in subdivision
9 (a) within 48 hours of the placement.

10 (d) (1) Notwithstanding Section 827 or any other provision of
11 law, the child protective agency may disclose any information
12 described in this section to prospective caretakers prior to
13 placement of a child if the child protective agency intends to place
14 the child with prospective caretakers who are also a family that is
15 willing to become the adoptive family of the child.

16 (2) In addition to the information required to be provided under
17 this section, the child protective agency may disclose to the
18 prospective caretaker specified in paragraph (1), placement
19 history or underlying source documents that are provided to
20 adoptive parents pursuant to subdivisions (a) and (b) of Section
21 8706 of the Family Code.

22 (e) The child's caretaker shall be responsible for obtaining and
23 maintaining accurate and thorough information from physicians
24 and educators for the child's summary as described in subdivision
25 (a) during the time that the child is in the care of the caretaker. On
26 each required visit, the child protective agency or its designee
27 family foster agency shall inquire of the caretaker whether there
28 is any new information that should be added to the child's
29 summary as described in subdivision (a). The child protective
30 agency shall update the summary with such information as
31 appropriate, but not later than the next court date or within 48
32 hours of a change in placement. The child protective agency or its
33 designee family foster agency shall take all necessary steps to
34 assist the caretaker in obtaining relevant health and education
35 information for the child's health and education summary as
36 described in subdivision (a).

37 (f) At the initial hearing, the court shall direct each parent to
38 provide to the child protective agency complete medical, dental,
39 mental health, and educational information, and medical
40 background, of the child and of the child's mother and the child's

1 biological father if known. The Judicial Council shall create a form
2 for the purpose of obtaining health and education information
3 from the child's parents or guardians at the initial hearing. The
4 court shall determine at the hearing held pursuant to Section 358
5 whether the medical, dental, mental health, and educational
6 information has been provided to the child protective agency.

7 ~~SEC. 7.~~

8 *SEC. 5.* Notwithstanding Section 17610 of the Government
9 Code, if the Commission on State Mandates determines that this
10 act contains costs mandated by the state, reimbursement to local
11 agencies and school districts for those costs shall be made pursuant
12 to Part 7 (commencing with Section 17500) of Division 4 of Title
13 2 of the Government Code. If the statewide cost of the claim for
14 reimbursement does not exceed one million dollars (\$1,000,000),
15 reimbursement shall be made from the State Mandates Claims
16 Fund.

